

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**SAMUEL G. BREITLING AND
JO ANN BREITLING,**

Plaintiffs,

vs.

LNV CORPORATION, ET AL.,

Defendants.

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**NO. 3:15-CV-00703**

STATE OF TEXAS  
COUNTY OF DALLAS  
CITY OF SACHSE

**AFFIDAVIT OF JOANN BREITLING IN SUPPORT OF RECUSAL OF  
JUDGE JANE BOYLE**

I, JoAnn Breitling, am beyond 18 years of age. I have resided in Dallas County all of my life. I have never been convicted of a crime. I am fully competent to make this affidavit in testimony of my personal knowledge and experience. I swear under the penalty of perjury and under the laws of Texas that my testimony herein is true and accurate.

My husband, Samuel Breittling and I are victims of the Beal organization in Dallas, Texas. On August 29, 2014 we sued them pursuant to Texas Rules of Civil Procedure 736.11 which put into effect and automatic stay of the sale of our property scheduled on September 2, 2014. However LNV Corporation, fully controlled by D. Andrew Beal, elected to violate Rule 736.11 and sell our property to LNV anyway in a non judicial foreclosure sale. On September 15, 2014, the day LNV was served, our lawsuit was removed to federal court as case number 3:14-cv-03322-M. It was assigned to the Honorable Judge Barbara Lynn. We timely motioned to remand the case back to state court. On October 29, 2014 Magistrate Judge David Horan recommended remand, but Judge Lynn did not sign the Order until January 27, 2015. The case was removed back to federal court on March 3, 2015, as case number 3:15-cv-0703-B. It was assigned to the Honorable Judge Jane Boyle.

We motion this court to recuse the Honorable Judge Jane Boyle from case number 3:15-cv-0703-B for the following reasons.

1. On April 27, 2015 we filed a motion to remand. Our motion to remand was denied. Judge Boyle cited no finding of fact or conclusion of law giving justification for this denial. We were thus unable to return to the state court where our state defenses could have provided us protection in an eviction action brought against us by LNV. Eviction is not a federal issue

and never can be. Judge Jane Boyle violated the Federal Courts Jurisdiction and Venue Clarification Act of 2011, H. R. 394 (112th) when she did this, and caused us harm as a result. If she thought we had a federal question, this Act mandates she should have remanded the state portion (illegal sale, clouded title and eviction) and kept the federal question (violations of due process and equal protection of law). She did neither. She held the case until after we were evicted. After this action by Judge Boyle we had no further incentive to return to state court.

2. At the status conference hearing held on June 22, 2015, I informed Judge Boyle (on the record) that we and other victims of the Beal organization filed Notices of Constitutional Questions which invokes the involvement of the U. S. Attorney General because we challenged the constitutionality of federal rules 56 and 12(b)(6). I was given a federal case number 3041185 and I was told that someone from our local U.S. Attorney's office would become involved in our case within 60 days. Judge Jane Boyle failed to disclose to me at the status conference that her husband, John J. Boyle, works in that office. Judge Jane Boyle failed to certify our Constitutional challenges to federal rules with the U.S. Attorney's office as required by law. The U. S. Attorney has failed to intervene in our case. The appearance is that Judge Boyle and her husband are interfering with the normal process of justice in our case, as well as, the other Beal victims' cases and the involvement of the U.S. Attorney. This creates a conflict of interest warranting recusal of Judge Boyle.
3. We belong to a class of victims of the Beal organization. Collectively we have reached out to many government agencies to report crimes being committed against us by the Beal organization. This is not a simple case of default and foreclosure. We are victims of a major debt/fraud scheme. In all of our pleadings we express that we are victims of a crime. Other Beal victims and I had for eight months emailed, called, and mailed evidence of such to a contact at the same office where John Boyle works. We thought our communications and the documents as evidence of these crimes we sent were confidential. We learned only two weeks ago that John Boyle works in the same office as our contact at the U.S. Attorney's office and in the same building where Judge Jane Boyle, his wife, works. Now we and the other Beal victims feel our cases have been compromised. This can only be resolved with recusal of Judge Boyle.
4. Judge Boyle has put us into a Catch-22 situation. She is attempting to take away all of our valid defenses. She knew of these defenses because they are on the court record from Judge Barbra Lynn's court and because I argued them orally at the status conference. After October 5, 2015, which incidentally coincides with the time frame that Brett Shipp contacted the Beal camp about Catherine Gephardt's case, Judge Boyle suddenly acted surprised at our claims in our first amended complaint filed on November 13, 2015, which she unfiled the next business day. It appears her intention now is to dismiss our case with prejudice in spite of the merits of our case, without due process and by denying us our constitutional right to a jury trial. Judge Jane Boyle should be immediately recused and all of her orders should be voided due to the appearance of bias.
5. Judge Jane Boyle also failed to disclose that our husbands worked together at the Dallas Police Department and knew of one another and had occasion to come in contact with one another in the course of their work. They have many mutual friends that are police officers. John J. Boyle and Samuel G. Breitling are both plaintiffs in a class action law suit that is currently at the Supreme Court of Texas. Texas is a community property state. This means

Judge Jane Boyle and I both have a mutual interest in the outcome of this case as the wives of plaintiffs. The Boyles and the Breitlings are also both members of the Dallas Police and Fire Pension Fund. This creates an inappropriate relationship. The only remedy is recusal of Judge Boyle as all orders she might make in this case is subject to being overturned. The only appropriate remedy is recusal, and the vacating of all orders that she has already made in our case. She should have never attempted to take jurisdiction of our case in the first place.

*Jo Ann Breitling*

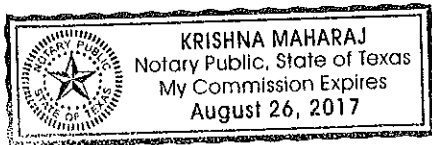
JoAnn Breitling

214-674-6572

STATE OF TEXAS

COUNTY OF Dallas

SWORN to and SUBSCRIBED before me, the undersigned notary, on the 16<sup>th</sup> day of December, 2015, \_\_\_\_\_.



*Krishna Maharaj*  
\_\_\_\_\_  
Notary Public, State of Texas

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was served upon all counsel of record and pro-se parties via the Court's CM/ECF system, email, and/or regular mail, and/or certified mail with return receipt requested; and that a correct copy of the foregoing document was served upon The United States Attorney General and the Texas Attorney General at the addresses below:

Attorney General of Texas,  
Ken Paxton  
P.O. Box 12548  
Austin, Texas 78711

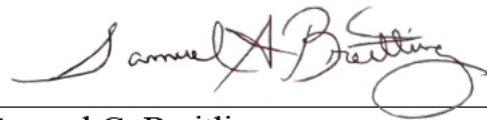
Marc Cabera, Jason Sanders,  
Robert Mowery  
Locke Lord LLP  
2200 Ross Ave, # 2200  
Dallas, TX 75201

Macdonald Devin, PC  
Codilis & Stawiarski  
3800 Renaissance Tower  
1201 Elm Street  
Dallas, TX 75270

U. S. Department of Justice,  
Loretta Lynch,  
U. S. Attorney General  
950 Pennsylvania Ave NW  
Washington, DC 20530



JoAnn S Breitling



Samuel G. Breitling